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## Documents.

### REGULATIONS FOR THE GRANTING OF LANDS, &c.

*Regulations for the granting of Land under the Spanish Government of Louisiana, and Mr. Gallatin's instructions to the Land Commissioners in Louisiana and Missouri.*

*Don Alexander O'Reilly, Commander of Benfayon; of the Order of Alcantara; Inspector General of Infantry; appointed, by special commission. Governor and Captain General of this Province of Louisiana.*

CONCLUDED FROM FOLIO 716.

3. The said grants can neither be sold, nor aliened by the proprietors, until after three years of possession, and until the above mentioned conditions shall have been entirely fulfilled. To guard against every evasion in this respect, the sales of the said lands cannot be made without a written permission from the Governor General; who will not grant it until, on strict inquiry, it shall be found that the conditions above explained have been duly executed.

4. The points formed by the lands on the Mississippi river, leaving, in some places, but little depth, there may be granted, in these cases, twelve arpens of front; and, on a supposition that these points should not be applied for by any inhabitant, they shall be distributed to the settlers nearest thereto; in order that the communication of the roads may not be interrupted.

5. If a tract belonging to minors should remain uncleared, and the mounds and roads should not be kept in repair, the judge of the quarter shall inquire into the cause thereof. If attributable to the guardian, he shall oblige him to conform promptly to this regulation, but if arising from want of means in the minors, the judge, after having, by a verbal process, attained proof thereof, shall report the same to the Governor General, to the end that the said land may be sold for the benefit of the minors; (a special favour, granted to minors only;) but if no purchasers shall, within six months, be found, the said land shall be conceded gratis.

6. Every inhabitant shall be held bound to inclose, within three years, the whole front of his land which shall be cleared; and, for the remainder of his inclosure, he will agree with his neighbours, in proportion to his cleared land and his means.

7. Cattle shall be permitted to go at large from the eleventh of November to the fifteenth of March, of the year following; and, at all other times, the proprietor shall be responsible for the damage that his cattle may have done to his neighbours. He who may have suffered the damage, shall complain to the judge of the district; who, after having satisfied himself of the truth thereof, shall name experienced men to estimate the value of the same, and shall then order remuneration without delay.

8. No grant in the Opelousas, Attakapas, and Natchitoches, shall exceed one league in front by one league in depth; but when the land granted shall not have that depth, a league and a half in front by half a league in depth may be granted.

9. To obtain, in the Opelousas, Attakapas, and Natchitoches, a grant of forty-two arpens in front by forty-two arpens in depth, the applicant must make appear that he is possessor of one hundred head of tame cattle, some horses and sheep, and two slaves to look after them; a proportion which shall always be observed for the grants to be made of greater extent than that declared in the preceding article.

10. All cattle shall be branded by the proprietors; and those who shall not have branded them at the age of eighteen months, cannot thereafter claim property therein.

11. Nothing being more injurious to the inhabitants than strayed cattle, without the destruction of which tame cattle cannot increase, and the inhabitants will continue to labour under those evils of which they have often complained to us, and considering that the province is, at present, infested by strayed cattle, we allow to the proprietors, until the first day of July of the next year, one thousand seven hundred and seventy-one, and to collect and kill, to their use, the said strayed cattle; after which time they shall be considered wild, and may be killed by any person whomsoever; and no one shall oppose himself thereto, or lay claim to a property therein.

12. All grants shall be made, in the name of the king, by the Governor General of the province; who will, at the same time, appoint a surveyor to fix the bounds thereof, both in front and depth, in presence of the judge ordinary of the district, and of two

adjoining settlers, who shall be present at the survey. The above mentioned four persons shall sign the verbal process which shall be made thereof, and the surveyor shall make three copies of the same; one of which shall be deposited in the office of the scrivener of the Government and the cabildo, another shall be delivered to the Governor General, and the third to the proprietor, to be annexed to the titles of his grant.

In pursuance of the powers which our lord, the king, (whom God preserve,) has been pleased to confide to us, by his patent, issued at Arenjuez, the 16th April, 1769, to establish in the military, the police, and in the administration of justice and his finances, such regulations as should be conducive to his service and the happiness of his subjects in this colony; with the reserve of his majesty's good pleasure, we order and command the governor, judges, cabildo, and all the inhabitants of this province, to perform punctually to all that is required by this regulation.

Given at New Orleans, the 18th of February, 1770.

### SPANISH REGULATIONS FOR THE ALLOTMENT OF LANDS.

*Instructions of Governor Gayoso, for the administration of the posts and distribution of lands.*

Instructions to be observed by the commandants of the posts in this province, for the admission of new settlers:

1. If the new settler comes from another post in the province, where he has obtained a grant of land, no other grant shall be made to him; and if he undertakes to fix himself down, he must buy land, or produce my special permission for the grant; and in order to determine whether he has before obtained land or not, the commandant of the posts from which he goes, shall express it in his passport.

2. If the new settler is a stranger, and is not a farmer, nor married, nor has property in negroes, merchandize, or money, he shall have no right to solicit a grant of lands, until he has remained four years, conducting himself well, in some honest and useful occupation.

3. Artisans shall be fully protected, but no land shall be granted them until they have acquired property, and have lived three years in the exercise of their art or profession.

4. To no unmarried emigrant, who has not a trade or profession, shall lands be granted, till after the expiration of four years, and then only on his showing that he has been, without interruption, honestly employed in the cultivation of the earth, without which necessary circumstance he shall not be entitled to a grant.

5. If any person, as described in the last article, after having lived in the country two years, shall obtain a recommendation from a farmer of honesty, who shall be willing, from his industry and application, to give him his daughter in marriage, as soon as the marriage is accomplished in due form, he shall be entitled to receive a grant of land, agreeably to the terms contained in this instruction.

6. The privilege of enjoying liberty of conscience is not to extend beyond the first generation. The children of those who enjoy it must positively be catholics. Those who will not conform to this rule are not to be admitted; but are to be sent back out of the province immediately, even though they possess much property.

7. In the Illinois, none shall be admitted but catholics of the classes of farmers and artisans. They must also possess some property, and must not have served in any public character in the country from whence they come. The provisions of the preceding article shall be explained to the emigrants already established in the province, who are not catholics, and shall be observed by them; the not having done it until this time, being an omission, and contrary to the orders of his Majesty, which required it from the beginning.

8. The commandants will take particular care that no protestant preacher, or one of any sect other than the catholic, shall introduce himself into the province. The least neglect in this respect, will be a subject of great reprehension.

9. To every new settler, answering the foregoing description, and married, there shall be granted two hundred arpens of land; fifty arpens shall be added for every child he shall bring with him.

10. To every emigrant, possessing property, and uniting the circumstances before mentioned, who shall arrive with an intention to establish himself, there shall be granted two hundred arpens of land; and, in addition, twenty arpens for every negro that he shall bring; provided, however, that the grant shall never exceed eight



hundred arpens to one proprietor. If he has such a number of negroes, as would entitle him, at the above rate, to a larger grant, he will also possess the means of purchasing more than that quantity of land if he wants it; and it is necessary, by all possible means, to prevent speculation in lands.

11. No lands shall be granted to traders; as they live in the towns; they do not want them.

12. Immediately on the arrival of a new settler, the oath of fidelity shall be required of him. If he is married, he shall prove that the wife whom he brings with him is his lawful wife. If he has goods or personal property, they shall both declare what part of them belongs to the portion of the wife, and whether any part belongs to any person who is absent; giving them to understand that if the contrary of what they assert is proved, the lands which are granted to them shall be taken back, with all the improvements they may have made upon them.

13. At the time when they take the oath, the above particulars are to be attended to; and no lands are to be granted for any negroes which are not proved to be lawfully and wholly the property of the emigrant; nor for the wife whom he brings with him, unless she is proved to be his lawful wife. In default of making such proofs, he is to be taken as coming within the description given in the second article.

14. The new settler, to whom lands have been granted, shall lose them without recovery, if, in the term of one year, he shall not begin to establish himself upon them; or if, in the third year, he shall not have put under labour ten arpens in every hundred.

15. He shall not possess the right to sell his lands until he shall have produced three crops, on the tenth part of his lands, which shall be well cultivated; but, in case of death, he may leave them to his lawful heir, if he has one resident in the country. If he has no heir in the country, they shall, in no event, go to an heir who is not of the country, unless such heir shall resolve to come and reside in it, conformably to the established conditions.

16. Debts contracted out of the province cannot be paid with the produce of lands thus granted, if there are debts due in the province, until after five harvests have been gathered. If, for bad conduct, it shall become necessary to eject the settler from the country before he shall have made the three crops necessary to give him the dominion of the soil, and the right to dispose of it, the lands shall then again become united to the domain of the King; and, in the same state, shall be granted alternately to the young man and to the young woman, residing within one league of the land which shall thus become vacant, who, by their good conduct, shall best deserve such a gift. The question who is entitled to this preference, shall be decided in an assembly of the most considerable people, headed by the commandant; which decision they shall make without any expense. They shall only consult me in the case, making known the circumstances for my approbation; and shall, without delay, put the deserving person in possession.

17. The forms established by my predecessors, in which to petition for lands, shall be followed, under the conditions expressed in this order, with the difference only that when the quantity of land amounts to, or exceeds, three hundred arpens, the fees to the secretary must be paid.

18. It shall not be permitted to any new settler to form an establishment at a distance from other settlers. The grants of land must be so made as not to have pieces of vacant ground between one and another; since this would offer a greater exposure to the attacks of the Indians, and render more difficult the administration of justice, and the regulation of the police, so necessary in all societies, and more particularly in new settlements.

MANUEL GAYOSO DE LEMOS.

New Orleans, 9th September, 1797.

GENERAL REGULATIONS AND INSTRUCTIONS OF MORALES, FOR CONCEDED LANDS.

Don John Bonaventure Morales, Principal Comptroller of the Army and Finances of the Provinces of Louisiana and West Florida, Intendant (par interim) and sub-delegate of the superintendence, General of the same, Judge of Admiralty, and of the lands, &c. of the King, &c.

The King, whom God preserve, having been pleased to declare and order, by his decree, given at Sta. Lorenzo, the 22d of October, of the last year, 1793, that the intendancy of these provinces, to the exclusion of all other authority, be put in possession of the privilege to divide and grant all kind of land belonging to his crown; which right, after his order of the 24th August, 1770, belonged to the civil and military government; wishing to perform this important charge, not only according to the 81st Article

of the ordinance of the Intendants of New-Spain, of the regulations of the year 1754, cited in the said article, and the laws respecting it, but also with regard to local circumstances, and those which may, without injury to the interests of the king, contribute to the encouragement, and to the greatest good of his subjects already established, or who may establish themselves in this part of his possessions.

After having examined, with the greatest attention, the regulation made by his excellency, Count O'Reilly, the 18th February, 1770, as well as that circulated by his excellency the present governor, Don Manuel Gayoso de Lemos, the 1st of January, 1793, and with the counsel which has been given me, on this subject, by Don Manuel Serrano, assessor of the intendancy, and other persons of skill in these matters; that all persons who wish to obtain lands may know in what manner they ought to ask for them, and on what conditions lands can be granted or sold; that those who are in possession without the necessary titles may know the steps they ought to take to come to an adjustment; that the commandants, as sub-delegates of the intendancy, may be informed of what they ought to observe; that the surveyor general of this city, and the particular surveyors who are under him, may be instructed of the formalities of which they ought to make surveys of lands, or lots, which shall be conceded, sold, or arranged for; that the secretary of the finances may know the fees he is entitled to, and the duties he has to discharge, and that none may be ignorant of any of the things which may tend to the greatest advantage of an object so important in itself as the security of property, under the conditions to enlarge, change, or revoke, that which time and circumstances may discover to be most useful and proper, to the attainment of the end to which the benevolent intentions of his majesty are directed, I have resolved that the following regulations shall be observed.

ART. 1. To each newly arrived family, (*a chaque famille nouvelle*.) who are possessed of the necessary qualifications to be admitted among the number of cultivators of these provinces, and who have obtained the permission of the government to establish themselves on a place which they have chosen, there shall be granted, for once, if it is on the bank of the Mississippi, four, six, or eight, arpens in front on the river, by the ordinary depth of forty arpens; and if it is at any other place, the quantity which they shall be judged capable to cultivate, and which shall be deemed necessary for pasture for his beasts, in proportion, according to the number of which the family is composed; understanding that the concession is never to exceed eight hundred arpens in superficies.

ART. 2. To obtain the said concession, if they are asked for in this city, the permission which has been obtained to establish themselves in the place from the governor, ought to accompany the petition; and if, in any of the *posts*, the commandant at the same time will state that the lands asked for are vacant, and belong to the domain, and that the petitioner has obtained permission of the government to establish himself; and referring to the date of the letter or advice they have received.

ART. 3. Those who obtain concessions on the bank of the river, ought to make, in the first year of their possession, levees sufficient to prevent the inundation of the waters, and canals sufficient to drain off the water when the river is high; they shall be held in addition, to make and keep in good order a public highway, which ought to be at least thirty feet wide, and have bridges of fifteen feet over the canals or ditches which the road crosses; which regulations ought to be observed, according to the usages of the respective districts, by all persons to whom lands are granted, in whatever part they are obtained.

ART. 4. The new settlers, who have obtained lands, shall be equally obliged to clear and put in cultivation, in the precise time of three years, all the front of their concessions, or the depth of at least two arpens, on the penalty of having the lands granted remitted to the domain, if this condition is not complied with.—The commandants and syndics will watch that what is enjoined in this and the preceding article be strictly observed; and occasionally inform the intendant of what they may have remarked, well understanding that, in case of default, they will be responsible to his majesty.

ART. 5. If a tract of land, belonging to minors, remain without being cleared, or as much of it as the regulations require, and that the bank, the road, the ditches, and the bridges, are not made, the commandant, or syndic, of the district, will certify from whom the fault has arisen; if it is in the guardian, he will urge him to put



it in order; and if he fails, he shall give an account of it: but if the fault arises from want of means of the minor to defray the expense, the commandant or syndic shall address a statement of it to the intendancy, to the end that the sale of it may be ordered for the benefit of the minor, to whom alone the privilege is allowed, if in the space of six months any purchaser presents, if not it shall be granted gratis to any person asking it, or sold for the benefit of the treasury.

ART. 6. During the said term of three years, no person shall sell nor dispose of the land which has been granted to him, nor shall he ever after the term, if he has failed to comply with the conditions contained in the preceding article; and to avoid abuses and surprise, in this respect, we declare that all sales made without the consent of the intendancy in writing, shall be null and of no effect; which consent shall not be granted until they have examined with a scrupulous attention if the conditions have or have not been fulfilled.

ART. 7. To avoid for the future the litigations and confusions of which we have examples every day, we have also judged it very requisite, that the notaries of this city, and the commandants of posts, shall not take any acknowledgement of conveyance of land obtained by concession; unless the seller (grantor) presents and delivers to the buyer the title which he has obtained, and, in addition, being careful to insert in the deed the metes and bounds, and other descriptions, which result from the title, and the *proces-verbal* of the survey, which ought to accompany it.

ART. 8. In case that the small depth which the points, upon which the land on the river is generally formed, prevent the granting of forty arpens, according to usage, there shall be given a greater quantity in front, to compensate it; or, if no other person asks the concession, or to purchase it, it shall be divided equally between the persons nearest to it, that may repair the banks, roads, and bridges, in the manner as before prescribed.

ART. 9. Although the king renounces the possession of the lands, sold, distributed, or conceded, in his name, those to whom they are granted or sold, ought to be apprised that his majesty reserves the right of taking from the forests, known here under the name of cypress woods, all the wood which may be necessary for his use, and more especially which he may want for the navy, in the same manner, and with the same liberty, that the undertakers have enjoyed to this time; but this, notwithstanding, they are not to suppose themselves authorized to take more than is necessary, nor to make use of splitting those which are cut down, and which are found to be unsuitable.

ART. 10. In the posts of Opelousas and Attakapas, the greatest quantity of land that can be conceded shall be one league front by the same quantity in depth; and when forty arpens cannot be obtained in depth, a half league may be granted: and, for a general rule, it is established, that, to obtain in said posts half a league in front, by the same quantity in depth, the petitioner must be owner of one hundred head of cattle, some horses and sheep, and two slaves; and, also, in proportion, for a larger tract, without the power, however, of exceeding the quantity before-mentioned.

ART. 11. As much as it is possible, and the local situation will permit, no interval shall be left between concessions; because it is very advantageous that the establishments touch, as much for the inhabitants, who can lend each other mutual support, as for the more easy administration of justice, and the observance of rules of police, indispensable in all places, but more especially in new establishments.

ART. 12. If, notwithstanding what is before written, marshy lands, or other causes, shall make it necessary to leave some vacant lands, the commanders and syndics will take care that the inhabitants of the district alone may take wood enough for their use only, and well understanding that they shall not take more; or if any individual of any other post shall attempt to get wood, or cut fire wood, without having obtained the permission of this intendancy, besides the indemnity which he shall be held to pay the treasury for the damage sustained, he shall be condemned for the first time to the payment of a fine of twenty five dollars; twice that sum for the second offence; and, for the third offence, shall be put in prison, according as the offence may be more or less aggravated; the said fines shall be divided between the treasury, the judge, and the informer.

ART. 13. The new settler (*comme le nouveau colon*) to whom land has been granted in one settlement, cannot obtain another concession, without having previously proven that he had possessed the first during three years, and fulfilled all the conditions prescribed.

ART. 14. The changes occasioned by the current of the river are often the cause of one part of a concession becoming useless, so that we have examples of proprietors pretending to abandon and re-unite to the domain a part of the most expensive for keeping up the banks, the roads, the ditches, &c. and willing to reserve only that which is good, and seeing that unless some remedy is provided for this abuse, the greatest mischief must result to the neighbors, we declare, that the treasury will not admit of an abandonment, or re-union, to the domain of any part of the land the owner wishes to get rid of, unless the abandonment comprehends the whole limits included in the concession or act, in virtue of which he owns the land he wishes to abandon.

ART. 15. All concessions shall be given in the name of the king, by the general intendant of this province, who shall order the surveyor general, or one particularly named by him, to make the survey, and mark the land, by fixing bounds, not only in front, but also in the rear; this [survey] ought to be done in the presence of the commandant, or syndic, of the district, and of two of the neighbors, and these four shall sign the *procès-verbal* which shall be drawn up by the surveyor.

ART. 16. The said *procès-verbal*, with a certified copy of the same, shall be sent by the surveyor to the intendant, to the end, that on the original there be delivered, by the consent of the king's attorney, the necessary title paper; to this will be annexed the certified copy forwarded by the surveyor. The original shall be deposited in the office of the Secretary of the Treasury, and care shall be taken to make annually a book of all which have been sent, with an alphabetical list, to be the more useful when it is necessary to have recourse to it, and for greater security, to the end that, at all times, and against all accidents, the documents which shall be wanted can be found. The surveyor shall also have another book, numbered, in which the *procès-verbal* of the survey he makes shall be recorded: and, as well on the original, which ought to be deposited on record, as on the copy intended to be annexed to the title, he shall note the folio of the book in which he has enregistered the figurative plat of survey.

ART. 17. In the office of the finances there shall also be a book numbered, where the titles of concessions shall be recorded; in which, besides the ordinary clauses, mention shall be made of the folio of the book in which they are transcribed. There must, also, be a note taken in the contaduria, or chamber of accounts, of the army and finances, and that under the penalty of being void. The chamber of accounts shall, also, have a little book; and, at the time of taking the note, shall cite the folio of the book where it is recorded.

ART. 18. Experience proves, that a great number of those who ask for land think themselves the legal owners of it; those who have obtained the first decree, by which the surveyor is ordered to measure it, and to put them in possession; others after the survey has been made, have neglected to ask the title for the property; and as like abuses continuing for a longer time will augment the confusion and disorder which will necessarily result; we declare, that no one of those who have obtained the said decrees, notwithstanding in virtue of them the survey has taken place, and that they have been put in possession, cannot be regarded as owners of land until their real titles are delivered, completed with all the formalities before recited.

ART. 19. All those who possess lands in virtue of formal titles, (*titres formels*) given by their excellencies the governors of this province since the epoch when it became under the power of the Spanish, and those who possessed them in the time when it belonged to France, so far from being interrupted, shall, on the contrary, be protected and maintained in their possessions.

ART. 20. Those who, without the title or possession mentioned in the preceding article, are found occupying lands, shall be driven therefrom, as from property belonging to the crown; but if they have occupied the same more than ten years, a compromise will be admitted to those who are considered as owners, that is to say, they shall not be deprived of their lands. Always, that, after information, and summary procedure, and with the intervention of the procurer of the king, at the board of the treasury, they shall be obliged to pay a just and moderate retribution, calculated according to the extent of the lands, their situation, and other circumstances, and the price of estimation for once paid into the royal treasury. The titles to property will be delivered on referring to that which has resulted from the proceedings.

ART. 21. Those who are found in a situation expressed in the 18th article they have not cleared, nor done any work upon the



land they consider themselves proprietors [of,] by virtue of the first decree of the government, not being of the number of those who have been admitted in the class of *new comers*, in being deprived or admitted to compromise, in the manner explained in the preceding article, if they are of that class, they shall observe what is ordered in the article following.

ART. 22. In the precise and peremptory term of six months, counting from the day when this regulation shall be published in each post, all those who occupy lands without titles from the governor, and those who, in having obtained a certain number of arpens, have seized a greater quantity, ought to make it known, either to have their titles made out, if there is any, or to be admitted to a compromise, or to declare that the said lands belong to the domain, if they have not been occupied more than ten years, understanding, if it passes the said term, if they are instructed by other ways, they will not obtain either title nor compromise.

ART. 23. Those who give information of lands occupied, after the expiration of the term fixed in the preceding article, shall have for their reward the one-fourth part of the price for which they are sold or obtained, by way of compromise; and, if desirable, he shall have the preference, either by compromise, at the price of appraisement, and there shall be made a deduction of one-fourth as informer.

ART. 24. As it is impossible, considering all the local circumstances of these provinces, that all the vacant lands belonging to the domain should be sold at auction, as it is ordained by the law 15th, title 12th, book 4th, of the collection of the laws of these kingdoms, the sale shall be made according as it shall be demanded, with the intervention of the king's attorney for the board of finances, for the price they shall be taxed, to those who wish to purchase; understanding, if the purchasers have not ready money to pay, it shall be lawful for them to purchase the said lands at redeemable quit rent, during which they shall pay the five per cent. yearly.

ART. 25. Besides the moderate price, which [the] land ought to be taxed, the purchasers shall be held to pay down the right of *media annati*, or half years, to be remitted to Spain, which, according to the custom of Havana, founded on law, is reduced two and a half per cent. on the price of estimation, and made eighteen per cent. on the sum, by the said two and a half per cent.; they shall also be obliged to pay down the fees of the surveyor and notary.

ART. 26. The sales of land shall be made subject to the same condition, and charges, of banks, roads, ditches, and bridges, contained in the preceding article. But the purchasers are not subject to lose their lands, if in the three first years they do not fulfil the said conditions. Commandants and syndics shall oblige them to put themselves within the rule, begin to perform the conditions in a reasonable term, and if they do not do it, the said work shall be done at the cost of the purchasers.

ART. 27. Care shall be taken to observe, in the said sales, that which is recommended in the 11th article, seeing the advantages and utility which results from consolidating the establishments always when it is practicable.

ART. 28. The titles to the property of lands which are sold or granted by way of compromise, shall be issued by the general intendant, who, after the price of estimation is fixed, and of the *media annati* [half years] or rent, or quit rent, the said price of estimation shall have been paid into the treasury, shall put it in writing according to the result of the procedure which have taken place with the intervention of the king's attorney.

ART. 29. The said procedure shall be deposited in the office of the finance, and the title be transcribed in another book, intended for the recording of deeds and grants of land, in the same manner as is ordered by the 17th article concerning gratuitous concessions. The principal chamber of accounts shall also have a separate book, to take a note of the titles issued for sales and grants under compromise.

ART. 30. The fees of the surveyor, in every case comprehended in the present regulation, shall be proportionate to the labour, and that which has been customary till this time to pay. Those of the secretary of finances, unless there has been extraordinary labour, and where the new settlers are not poor, (for in this case he is not to exact any thing of them,) shall be five dollars; and this shall include the recording and other formalities prescribed, and those of the appraisers, and of the interpreter, if, on any occasion, there is reason to employ him to translate papers, take declarations, or other acts, shall be regulated by the ordinance (*tariff*) of the province.

ART. 31. Indians who possess lands within the limits of the government shall not in any manner, be disturbed; on the contrary, they shall be protected and supported; and to this the commandants,

syndics, and surveyors, ought to pay the greatest attention, to conduct themselves in consequence.

ART. 32. The granting nor sale of any lands shall not be proceeded in, without formal information having been previously received that they are vacant; and to avoid injurious mistakes, we premise that, besides the signature of the commandant, or syndic, of the district, this information ought to be joined by that of the surveyor, and of two of the neighbours, well understanding. If, notwithstanding this necessary precaution it shall be found that the land has another owner besides the claimant, and that there is sufficient reason to restore to him, the commandant, or syndic, surveyor, and the neighbours, who have signed the information, shall indemnify him for the losses he has suffered.

ART. 33. As far as it shall be practicable, the inhabitants shall endeavour that the petitions presented by them, to ask for lands, be written in the Spanish language; on which they ought, also, to write the advice or information which the commandants have given. In the posts where this is not practicable, the ancient usage shall be followed.

ART. 34. All the lots or seats belonging to the domain, which are found vacant, either in this city, or boroughs, or villages already established, or which may be established, shall be sold for ready money, with the formalities prescribed in the article 24th, and others, which concern the sale of lands.

ART. 35. The owners of lots or places, which have been divided, (*repartis*), as well as those in front, as towards the N.E. and S.W. extremities, N.E. and S.W. shall, in three months, present to the intendency the titles which they have obtained; to the end that, in examining the same, if any essential thing is wanting, they may be assured of their property in a legal way.

ART. 36. The same thing shall be done before the sub-delegates of Mobile and Pensacola, for those who have obtained grants for lots in these respective establishments; to the end that this intendency, being instructed thereon, may order what it shall judge most convenient to indemnify the royal treasury, without doing wrong to the owner.

ART. 37. In the (*contadorerie*) office of the comptroller, contadria of the army, or chambers of accounts of this province, and other boards under the jurisdiction of this intendency, an account shall be kept of the amount of sales or grants of lands, to instruct his majesty every year what this branch of the royal revenue produces; according as it is ordered in the 13th article of the ordinance of the king, of the 15th October, 1754.

ART. 38. The commandants, or syndics, in their respective districts, are charged with the collection of the amount of the taxes or rents laid on lands; for this purpose the papers and necessary documents are to be sent to them; and they ought to forward, annually, to the general treasury, the sums they have collected, to the end that acquittances, clothed with the usual formalities, may be delivered them.

And that the present regulation may come to the knowledge of every body, and that the thirty eight articles of which it is composed may have their full and entire effect, until it pleases his majesty to order otherwise, it shall be translated into French, by M. Pierre Derbigny, the king's interpreter; shall be printed in the two languages; forwarded to all places and posts within the jurisdiction of this intendency, that the commandants, as sub-delegates thereof, shall make it known to the inhabitants in the usual form, and that it be published in this city. There shall, also, be sent a copy to M. the governor, and to the most illustrious cabildo, to the end, that they please to lend their aid in the execution of that which has been before ordered, conformable to the laws and ordinances which have been made on this subject, and in the persuasion that this can be done without injury to the king's interest, and tend the more to the encouragement, the welfare, and prosperity of his subjects in this colony.

JUAN VENTURA MORALES.

NEW ORLEANS, July 17, 1799.

J. B. C. LUCAS, }  
C. B. Penrose, } Esqs. Commissioners for land claims St. Louis.  
J. L. Donaldson, }

GENTLEMEN: I have the honour to enclose instructions, prepared in conformity with the eighth section of the act, entitled "An act supplementary to an act, entitled an act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana," which have been approved by the President of the United States; and to which you will, therefore, be pleased to conform in your several proceedings and decisions.

TREASURY DEPARTMENT, Sept. 8, 1806.



The forms of reports and transcripts will be transmitted in the course of next month. If, in your opinion, the business of the board cannot be completed before the close of this year, you will be pleased to state in time to me, in order that Congress may make such additional provision as they will think necessary. I am, &c.

Instructions for the commissioners appointed to ascertain the titles and claims to land in the territory of Louisiana, prepared by the Secretary of the Treasury, in conformity with the eighth section of the act, entitled "An act supplementary to an act, entitled an act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana," and approved by the President of the United States.

1. All claims derived from any grant, concession, order of survey, or other species of title, whether complete or incomplete, bearing date subsequent to the first day of October, 1800, must be rejected, unless they be embraced by the second section of the act of 2d March, 1805.

2. No titles shall be considered as complete, but legal French or Spanish grants, made and completed before the first day of October, 1800, regularly signed and issued, prior to that date, by the governor general, or intendant, of the province of Louisiana, residing at New Orleans, and duly recorded at the proper office in New Orleans.

3. No claims, other than those derived from complete titles, shall be admitted, unless the lands claimed were actually inhabited and cultivated on the first day of October, 1800, and by or for the use of the persons claiming the same, if such persons claimed by virtue of the 1st section of the act of 2d March, 1805; and on the 20th day of December, 1803, and by the persons claiming the same, if such persons claimed by virtue of the second section of the said act.

4. All claims, founded on the first section of the said act, must be derived from a written order, whether known by the name of concession, or any other denomination, issued by an officer duly authorized by the Spanish laws for the time being to issue the same, and directing a tract of land to be surveyed for the party.

5. In every case, where the tract thus claimed shall contain a greater quantity of land than was generally allowed to actual settlers and their family, agreeably to the laws, usages, and customs, of the Spanish government, the claim shall be rejected, unless a duly authenticated copy of the ordinance, authorizing the officers to grant such greater quantity of land, shall have been produced and deposited with the commissioners.

6. All claims, presented under the first section of the act above mentioned, must be rejected, unless the concession, order, or warrant of survey, shall have been duly registered in the books, records, or minutes, kept by the Spanish officer or officers for that purpose.

7. If the officer, issuing such concessions, orders, or warrants of survey, shall have kept any books, records, or minutes, for the registering or noting of the concessions, orders, or warrants of survey, issued by him; any concession, order, or warrant of survey, not registered or noted in its proper order, according to its date, in such books, records, or minutes, shall be considered "*prima facie*," as surreptitious or antedated; and the burden of the proof of its date and validity shall fall on the claimant.

8. If no books, records, nor minutes, have been kept, in which the concessions, orders, or warrants, of survey, have been entered at the time when the same were issued, and, in their proper order, according to their dates; the burden of the proof of the date, and validity of any such concession, order, or warrant of survey, shall fall on the claimant, whenever the agent of the United States shall object to the same, on the ground of its being antedated, or otherwise fraudulent.

9. Whenever it shall appear, in evidence, that the actual survey of any such concession, order, or warrant, was made subsequent to the 1st day of October, 1800, and the date assigned to such actual survey, either on the plat or return thereof, or on the books or records of the officer, acting as surveyor general under the Spanish government, shall be prior to the said 1st day of October, 1800, the concession, order, or warrant, shall be rejected as fraudulent; and the abovementioned officer, acting as surveyor general, and, also, every other former Spanish officer, as well as every other witness, shall be obliged to answer every question put to him by the agent of the United States respecting any claim, the validity of which is disputed by the said agent.

10. No tract of land shall, in any instance, be granted under the 2d section of the act of the 2d of March, 1805, to a person claiming land under the 1st section of the act, or under a complete French or Spanish grant.

11. The commissioners will consider the opinion of the attorney general of the United States, of the 12th of March, 1806, transmitted by the Secretary of the Treasury, in his letter of 26th March last, as part of these instructions; and they will revise and correct, in conformity with the said instructions and opinion, every former decision of theirs, which may be inconsistent with, or contradictory to, either.

John B. C. Lucas,  
Clement B. Penrose,  
James L. Donaldson, } Commissioners, &c. St. Louis.

TREASURY DEPARTMENT, November 14, 1806.

GENTLEMEN: In conformity with the provisions of the 8th section of the act of 21st of April last, the following rules are prescribed, in relation to the forms of the transcript of your decision in favour of claimants for land in the territory of Louisiana, which you are directed by law to transmit to the Secretary of the Treasury.

1. The decisions to be arranged according to the districts into which that part of the former province of Louisiana, now forming the territory of Louisiana, was divided at the time when the United States obtained possession of the same; so that the decisions, in relation to claims for land in one district, shall not be blended with those for land situated in another district; but there shall be in fact a distinct transcript of decisions for each district.

2. The transcript of decisions, for each district, to be arranged under three general heads, viz: 1st. Complete titles derived from French or Spanish grants. 2d. Claims derived from warrants or orders of survey, and embraced by the first section of the act of 2d March, 1805. 3d. Claims derived from actual settlement, and embraced by the second section of the above mentioned act. Each of the two first classes to be sub-divided into, and arranged under, two distinct heads, viz: 1st. claims derived from the French government, and, 2d. Claims derived from the Spanish government, and the last class to be arranged also under two heads, viz: 1st. Cases in which evidence of permission to settle has been produced; 2d. Cases embraced by the first section of the act of 21st April, 1806, which will make, in the whole, six distinct classes.

3. To the transcript of decisions for each district, a recapitulation or register must be prefixed, arranged also under the six abovementioned classes, and in conformity to the forms A, B, C, D, E, F, herein enclosed. Each class may, by the commissioners, be sub-divided into such subordinate classes as they may think convenient, and the decisions, for each class or sub-division, to be in the said recapitulation or register, arranged alphabetically by the names of the persons in whose favour the decisions shall have been made. In the last column of the said recapitulation or register, entitled general remarks, the following particulars must be noted in addition to such other references as the commissioners may think proper to insert, viz: 1st. Whether the claim was opposed by the agent of the United States, which may be expressed by the single word "*opposed*." 2d. Whether the decision was not unanimous, which may be expressed merely by inserting the surnames of the commissioners in favour of the decision, (and it will thence follow that whenever, in the last column, the word *opposed* does not appear, the claim was not opposed by the agent, and whenever the name of neither commissioner is inserted, the decisions were unanimous.) 3d. Reference to the ordinance, authorizing the officers to grant the quantity of land allowed, whenever it shall exceed the quantity generally allowed, agreeably to the laws, usages, and customs of the Spanish government, in which case, a copy of such ordinance must accompany the transcript of decisions. 4th. Whether the claim be confirmed under the second section of the act of 21st April last, which may be expressed by the words *ten years possession*.

4. No other rule can be given for the form in which the decisions themselves should be expressed, than to say, generally, that they must, as concisely as practicable, include the particulars necessary to enable Congress to understand the principles on which they are founded, and the leading facts to which the principles apply in each decision. The enclosed forms of recapitulation or register, and the immediately preceding rule, show the circumstances which are believed, with the imperfect knowledge this Department has of the subject, to be most important. To these must be added, the conditions on which grants, orders, or warrants of survey, and every species of concession were made or granted, and whether the same have been fulfilled. But the commissioners will materially assist Congress in forming a correct determination, by prefixing to the transcript a general report, stating the various secondary classes, into which the abovementioned general classes may be divided; and the general



principles which have governed the board, in their decisions, respecting each such sub-division. This will be more particularly important, as it relates to claims which were opposed by the agent, or on which the commissioners were not unanimous.

5. It will be observed, that, in the form C and D, there is a column for inserting the situation of the land as described in the order or warrant of survey; for, although it is understood that there are some concessions which do not describe the land, these are not considered as embraced by the first section of the act of 2d March, 1805. Should any such, however, from any particular and unforeseen circumstance, be confirmed by the commissioners, they must be distinctly reported and arranged as subordinate classes of the classes C. D. both in the transcript of decisions, and in the register or recapitulation.

6. As far as circumstances will permit, the same arrangement in the division of classes, and the same forms of recapitulation or register, must be followed in the report of claims rejected, as in the transcript of decisions in favour of claims, observing briefly to note, in the column of general remarks, the cause why rejected.

Of the special report relative to the lead mines, no form can be prescribed; but, in stating the claims to the same, whether confirmed or rejected, a reference should be affixed to the place where that claim is to be found, either in the transcript of favourable decisions, or in the report of claims rejected.

I am, &c.

## State Papers.

### NEGOTIATIONS WITH FRANCE.

#### DOCUMENTS TRANSMITTED TO CONGRESS.

To the Speaker of the House of Representatives of the U. S.

I transmit to the House of Representatives a report from the Secretary of State, agreeably to a resolution of that House of the 11th of December last, with the papers which accompanied that report. JAMES MONROE.  
Washington, 2d February, 1824.

DEPARTMENT OF STATE, Washington, 2d Feb. 1824.

The Secretary of State, to whom has been referred the resolution of the House of Representatives, of the 11th of December last, "requesting the President of the United States to communicate to that House copies of such parts of the Correspondence of the late Minister of the United States at the Court of France with the French Government, and such parts of the Correspondence of said Minister with the Secretary of State, relative to claims of citizens of the United States for spoliation upon our lawful commerce, as, in his opinion, may not be inconsistent with the public interest," has the honour of submitting to the President the papers required by that resolution.

JOHN QUINCY ADAMS.

Extracts from the general instructions of Mr. Monroe, Secretary of State, to Mr. Gallatin, Envoy Extraordinary, and Minister Plenipotentiary of the United States to France, dated

DEPARTMENT OF STATE, Washington, 15th April, 1816.

"It has, at all times, since our Revolution, been the sincere desire of this Government to cultivate a good intelligence with France. The changes which have taken place in her Government have never produced any changes in this disposition. The United States have looked to the French Nation, and to the existing Government, as its proper organ, deeming it unjustifiable to interfere with its interior concerns. The existing Government has, in consequence, been invariably recognized here, as soon as known. Should you find, that unfounded prejudices are entertained on this subject, which a frank explanation may remove, you are authorized to make it.

"Cherishing these sentiments towards the French Nation, under all the Governments which have existed there, it has not been less a cause of surprise, than of regret, that a corresponding disposition has not, at all times, been reciprocated by the French Government towards the United States. The history of the last ten years is replete with wrongs, received from that Government, for which no justifiable pretext can be assigned. The property wrested, in that space of time, from our citizens, is of great value, for which reparation has not been obtained. These injuries were received, under the administration of the late Emperor of France, on whom the demand of indemnity was incessantly made, while he remained in power. Under the sensibility thereby excited, and the failure to obtain justice, the relations of the two countries were much affected. The disorder which has, of late, existed in France, has prevented a repetition of this demand; but now, that the Government appears to be settled, it is due to our citizens, who were so unjustly plundered, to present their claims, anew, to the French Government."

"A gross sum will be received, in satisfaction of the whole claim, if the liquidation and payment of every claim, founded on just principles, to be established, cannot be obtained.

"The management of this important interest is committed to your discretion, as to the moment and manner of bringing it under consideration, in which the prospect of obtaining a satisfactory reparation will, necessarily have its due weight. You will be furnished with a letter of instruction, authorizing you to provide for it, by Convention, should that mode be preferred."

The Secretary of State to Mr. Gallatin.

DEPARTMENT OF STATE, Washington, 7th May, 1816.

SIR: On the presumption that his Most Christian Majesty may be disposed to provide, by special convention, for the just claims of the citizens of the United States against France, as, also, for the like claims of French subjects against the United States—this letter is given to you by direction of the President, as an authority and instruction to negotiate a Convention for that purpose, with such person, or persons, as may have a like authority from his Most Christian Majesty. I have the honour to be, &c. JAMES MONROE.

Extract of a letter, No. 10, from Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary to France, to Mr. Monroe, Secretary of State, dated

PARIS, 11th Nov. 1816.

"I have the honour to enclose the copy of my note, of the 9th instant, to the Duke de Richelieu, on the subject of indemnities due to citizens of the United States, on account of the illegal and irregular sequestrations and confiscations made under the authority of the former Government of France. I had some difficulty in collecting, from scattered documents, the information necessarily to present a correct view of the subject, and adapted to existing circumstances."

PARIS, 9th November, 1816.

MONSIEUR LE DUC: I had already the honour, in some preliminary conversations, to present to your excellency a general view of the losses sustained by American citizens, under various illegal acts of the former Government of France; and, for which, the United States claim an indemnity from the justice of his most Christian Majesty.

The right to an indemnity, being founded on the law of nations, extends to all cases, where there has been an evident infraction of that law, such as it is recognized by civilized nations.

Of the acts of the former French Government, openly violating that law; those issued on the 21st November, 1806, at Berlin, and on the 17th December, 1807, at Milan, were promulgated in the shape of public decrees, applicable, at least, nominally, to other nations, as well as the United States. Other acts were, exclusively directed against America; appearing, also, sometimes under the form of decrees, as that of Bayonne, of the 17th April, 1808, and that of Rambouillet, of the 23d March, 1810; and, at times, being only special orders for seizing or selling certain American vessels and cargoes. To these various acts, must be added, the wanton destruction, at different times, of American vessels on the high seas.

That the Berlin and Milan decrees, so far as they declared liable to capture and condemnation neutral vessels, pursuing an innocent commerce, and contravening no municipal laws, were an evident violation of the law of nations, has not been, and cannot be, denied. The plea of retaliation, grounded on a supposed acquiescence of neutral powers in certain acts of Great Britain, and urged in justification of those decrees, was unjust in its principle, and altogether inadmissible, when affecting a neutral instead of an enemy. And, even that pretence for plundering a friendly power was abandoned, when the two belligerent governments whilst continuing to capture the vessels of the neutral trading with their respective enemy, permitted a direct commerce, by means of licenses. But that plea was, in point of fact, destitute of foundation with respect to the United States. That they had uniformly opposed the aggressions of Great Britain, on their neutral rights, is notorious. It is not less true, and appears from all their public acts, and from the tenor of their negotiations with both belligerents, that it was solely owing to the acts of France, to the Berlin and Milan decrees, that still more decisive measures of resistance were not early adopted against Great Britain. So long as France and England equally continued to violate the neutral rights of America, she could not have selected either of those nations for an enemy, without tamely submitting to the aggressions of the other, and without deviating from that impartial course which it was her constant endeavour to pursue. And when, at last, the French decrees had been revoked, so far as America was concerned, the perseverance of England in continuing her unlawful orders, and in violating the rights of the United States, produced a declaration of war, on their part, against that country.

Notwithstanding the intrinsic justice of the claim of the United States for losses sustained by their citizens under the Berlin and Milan decrees, it was intimated by your Excellency that those decrees having been of a general nature, other nations that had also experienced losses by their operation, would have had an equal right to an indemnity, and that those acts not having been enumerated in the last treaties and conventions between France and the other European powers, amongst those for which a compensation should be made by France, the United States ought not to expect to be placed on a better footing than other nations.

It would be preposterous to suppose, and it cannot have been intended to suggest, that the United States can in any case be bound by treaties to which they were not parties, and in which no attention whatever could have been paid to their interest. Nor can, by any correct analogy, the principles therein adopted, be applied to America.

The allied powers naturally sought to obtain indemnity in those cases in which they were most interested. Almost all, if not all of them, had been, during the late European wars, either at war, or in alliance with France, whilst the United States had never stood in either of those relations towards her. Hence, it necessarily followed, that the injuries sustained by the subjects of those powers, differed essentially from those inflicted by France on American citizens. The Berlin and Milan decrees, so far as they extended beyond prohibitory municipal regulations, although nominally general, applied in fact almost exclusively to the U. S. States. If there was any exception, it was in amount too small, and applied to nations whose weight was too inconsiderable, to be taken into consideration. Of the other powers, many had no interest that indemnities should be obtained on that account, whilst several of them, namely, England, Spain, Holland, Denmark, and Naples, had a direct interest that the principle should not be admitted. It will, of course, appear, that, by the convention between France and Great Britain, compensation is to be made by



France for all the property of English subjects confiscated or sequestered, not only during the last war, but also during that which preceded the treaty of Amiens, and including even the loss arising from the reduction of the public debt of France, to one third of its nominal amount, with the exception of the seizures and confiscations made in consequence of the laws of war, and of the prohibitory laws. And the exception precisely embraces the principal classes of injuries, for which the United States are entitled to indemnity, since their grounds of complaint against France are the abuse on her part of belligerent rights, and the unlawful extension of prohibitory laws beyond their legitimate sphere.

Not only were the Berlin and Milan decrees an evident and acknowledged violation of the law of nations; not only the plea of retaliation against England, and of a presumed acquiescence in her aggressions, was unfounded, with respect to the United States; not only neither the treaties between France and the allied powers are binding on America, nor the principles adopted in those treaties applicable to the relations in which she stood towards France; but those decrees were also an open infraction of the treaties subsisting between the two countries; namely, of the 12th, 13th, and 14th articles of the convention of the 30th of September, 1800, which did not expire till the 31st of July, 1809. For, it was therein stipulated, that the citizens of either country might sail with their ships and merchandise (contraband goods excepted) from any port whatever, to any port of the enemy of the other, and from a port of such enemy, either to a neutral port, or to another port of the enemy, unless such port should be actually blockaded; that a vessel sailing for an enemy's port without knowing that the same was blockaded, should be turned away, but neither be detained, nor her cargo confiscated: that implements and ammunition of war should alone be considered contraband of war; and that free ships should make free goods, extending that freedom even to an enemy's property, on board the ships belonging to the citizens of either country. The French decrees, in violation of those stipulations, after having declared the British islands and possessions in a state of blockade, although they were not pretended to be actually blockaded, made liable to capture and condemnation all American (as well as other neutral) vessels, sailing on the high seas, from or to any English port, or even which might have been visited by an English vessel, as well as every species of merchandise belonging to English subjects, or of English origin.

It is true that, in answer to the American Minister who had applied for explanations respecting the construction intended to be given to the Berlin decree, assurances were at first given that it would produce no change in the previous regulations respecting neutral navigators, nor in the convention with the United States. This construction, which gave to that decree the character only of a prohibitory municipal law, was adhered to during the ten first months which followed its promulgation; and it was only in September, 1807, that merchandise, found on board of neutral vessels at sea, was declared liable to condemnation, merely on account of its being of British growth or manufacture. This fact is here stated for the purpose of observing, that the assurances which had thus been given, and the practical construction thus first put on the Berlin decree, prevented the early opposition which otherwise the United States would have made to it; and that this supposed acquiescence on their part, served as a pretence for the British orders in council of November, 1807, which were immediately followed by the French decree of Milan.

The decrees and orders of the French government, which applied exclusively to the United States, will now be noticed.

Assailed by the simultaneous aggressions of the two belligerent powers, the first step of the American government was to withdraw the commerce of the United States from the depredations to which it was every where exposed. An embargo was laid in the latter end of the year 1807, on all their vessels: and notwithstanding the extraordinary privations and the great loss of revenue which were incurred, that measure was persevered in during fifteen months. In the mean while, strong remonstrances were made to the French and English governments, on the subject of their unlawful acts. Not only was the appeal to their justice fruitless, but it appears that, by an order said to have been issued at Bayonne, on the 17th of April, 1808, all American vessels then in the ports of France, or which might thereafter come into them, were directed to be seized, on the pretence that no vessel of the United States could then navigate, without infringing a law of the United States, as if the infraction of a municipal law could be lawfully punished by a foreign power; as if it had not been notorious, that a number of American vessels, which were abroad when the embargo became known to them, remained in foreign seas and countries, in order to avoid the effect of that law.

The pressure of the embargo on the agriculture and commerce of the United States became such, that Congress found it proper to modify that measure. By a law of the 1st March, 1809, the act laying an embargo was repealed with respect to all countries, England and France only excepted, and the vessels and merchandise of both countries were excluded from the United States after the 20th of May following; with the proviso, that, in case either France or Great Britain should so revoke or modify their edicts, as that they should cease to violate the neutral commerce of the United States, the commercial intercourse of the United States should be renewed with the nation so doing. This law in its nature was entirely municipal and pacific; and its object was to avoid immediate hostilities, and to give further time for negotiations; to withdraw, as far as practicable, the navigation of the United States from the operation of the unlawful acts of both France and England, and to give to both sufficient inducements for repealing their edicts, by the actual privation of the benefits derived from the American commerce, and by the prospect that, in case of such repeal by either nation, she would again enjoy those advantages of which her enemy would continue to be deprived.

The act was officially communicated on the 29th of April, 1809, by the American Minister to the French government. It was not at that time treated as hostile; and if it produced no favourable change, no remonstrance was made against it. But, towards the end of the same year, orders were given to seize all the American vessels in France, or in the countries occupied by her arms, and after a great number had been thus seized, principally in Spain and in Hol-

land, an imperial decree was, on the 23d March, 1810, issued at Rambouillet, ordering or rather confirming that seizure, extending it to all American vessels which had entered France, or those countries since the 20th May, 1809, and directing that the product of the sales should be deposited in the *caisse d'amortissement*. The act of Congress of 1st March, 1809, was alleged as the motive for that outrageous measure. In point of fact, it is not believed that any vessels, the property of French subjects, had been forfeited for a violation of that act. At least, it is not recollected that any application was made for the remission of such forfeiture, to the Treasury Department, which, by the law, was authorized to grant such remissions, and would certainly have done it, in any case where the law might not have been within the knowledge of the parties. But it cannot be necessary seriously to discuss a plea, which was evidently but a pretence for plunder. It will be sufficient to observe, that the gross injustice of the Rambouillet decree consists in its retrospective operation; and that if the French government had promulgated an order, excluding American vessels from the ports of France and of the countries occupied by her arms, and pronouncing the penalty of confiscation after due notice of that order, American citizens who might have voluntarily and knowingly violated the provisions of what was only a municipal law, would have been justly liable to its penalties.

The American property seized or captured by virtue of either of those four general decrees, or of special orders, which are but partially known to the government of the United States, may, in reference to its present situation, be classed under two general heads, viz.: that which has never been condemned, and that which has been actually confiscated.

The first class embraces the vessels and cargoes burnt at sea, and those which have been sequestered.

It is not necessary to make any observations on the destruction of vessels at sea, your excellency having already intimated that the government of France was disposed to make compensation for acts of that nature.

The vessels and cargoes sequestered, and not condemned, consisted principally of those seized at St. Sebastian, and other places, in the latter end of the year 1809, and in the beginning of 1810, and sold by virtue of the decree of Rambouillet. Fourteen vessels, which, during the winter, had been driven into Holland, and which, by a particular agreement between the government of that country and that of France, bearing date, it is said, the 16th of March, 1810, were put at the disposal of France, are of the same description. And exclusively of other special orders of the same nature, which may not be known to me, the cargoes of seven vessels arrived at Antwerp in the beginning of the year 1807, and which were permitted to be landed there, were also sequestered and finally sold, by virtue of an order of government, dated the 4th of May, 1810. In all these cases, there has been no condemnation—no final decision. The vessels and cargoes were only seized and sold by order of government, and the proceeds of sales deposited in the *caisse d'amortissement*, or in some other public chest.

The right to demand and obtain a decision on all those suspended cases, is undeniable. Either the proceeds of sales will be restored to the lawful owners, by virtue of that decision, or the present government of France must go beyond what had been done by the former government, and decree the final confiscation of property, which even that government had been unwilling to condemn. I will not permit myself for a moment to suppose that there can be any hesitation on that question.

With respect to property actually condemned, without intending to impair the indisputable right of the United States to an indemnity for every condemnation, made by virtue of decrees, violating the acknowledged law of nations, I will beg leave to add some observations on the manner in which those decrees were executed, for the purpose of showing that an investigation and revision of those condemnations ought to take place, even if it was admitted that France had a right to issue the Berlin and Milan decrees, and to condemn vessels contravening their tenor. The time necessary to obtain information in that respect, has occasioned the delay which has taken place in making this communication, since the last conference I had the honour to hold with your Excellency.

1. These condemnations have, as has already been stated, been made in contravention of an existing treaty, so far at least as relates to property seized or captured prior to the 31st of July, 1809.

2. Several of the condemnations, or, rather, acts of confiscation, were made by what has been called "imperial decisions," meaning thereby not those cases where an appeal may have been made, from the Council of Prizes to the Council of State, but those instances where the order of condemnation issued from the Council, or from Napoleon himself, without any previous regular trial and condemnation by the Council of Prizes. Such proceedings must be considered as irregular and arbitrary acts, contravening the usages and law of nations.—It is sufficiently hard for the neutral, that his property should be tried exclusively by the tribunals of the belligerent, where a natural bias exists in favour of the captors. It is at least necessary that the decisions should be made by a regular and permanent tribunal, acting according to fixed rules, and affording every security of which such an institution is susceptible. But the United States have a right to demand that those imperial decisions should be annulled not only as contravening the usages and law of nations, but as violating, also, an existing treaty. It has been stipulated by the 22d Article of the Convention, of the 30th of September, 1800, "that in all cases the established courts for prize causes, in the country to which the prizes might be conducted, should alone take cognizance of them." Of twenty-seven vessels and cargoes, (captured or seized prior to the 1st of November, 1810,) which, as appears by a list before me, were condemned by imperial decisions, eighteen had been seized or captured, prior to the 31st of July, 1809, the day on which the Convention expired.

3. I have been assured that, upon investigation, it will be found that some of the decisions of the Council of Prizes itself, have taken place without observing the forms prescribed by law, without giving an opportunity to the parties of bringing their proofs; without an examination of the ship-papers, and, in fact, in obedience to an imperial order. A decision of the Council, dated 10th of Sep-



tember, 1811, and by which six ships and cargoes were at once condemned, is particularly mentioned.

4. The retrospective operation of the Rambouillet decree has already been mentioned. It will also be found that, in several instances, the Milan decree has received a similar construction, and that vessels have been condemned for having contravened that decree, which could not have known its existence, having sailed from American ports either before, or a short time after, it had been issued, and the alleged infraction of the decree itself, having, at least in one instance, taken place prior to its date.

5. It might have been expected that, when the Berlin and Milan decrees were declared to be revoked from and after the 1st of November, 1810, no further condemnations would take place with respect to cases not yet decided, at that time, notwithstanding which, it appears that forty-eight ships and cargoes, previously seized or captured, were condemned subsequent to that day, namely:—by the Council of Prizes, eighteen before, and ten after, the 28th of April, 1811; and by imperial decisions, eleven before and nine after, the last mentioned day. Yet the decree of that day, (28th April, 1811,) enacts and declares, that the Berlin and Milan decrees are, from and after the 1st November, 1810, definitively considered as if they had not existed, (*comme non avenus*), with respect to American vessels.

6. Several condemnations were made for frivolous pretences, of vessels captured after the first November, 1810, or in other cases, which the general decrees could not reach; such as alleged irregularities in the certificates of origin, or in other ship papers; presumed navigation under British convoy; mutiny on board; intention to remit the proceeds of sales through England.

It appears, from the preceding statement, that, independent of the illegality of the Berlin and Milan decrees, there is sufficient cause for the revision of the condemnations which have taken place. Nor is there any thing novel in that course. A number of unlawful captures of American vessels having been made by Great Britain, during the commencement of her war with France, particularly by virtue of certain British orders in council, of the 6th November, 1793, it was agreed, by the 7th article of the treaty of November, 1794, between the United States and England, that full and complete compensation should be made by the British government for the losses and damage sustained by citizens of the United States, by reason of *irregular or illegal captures or condemnations* of their vessels and other property, under colour of authority or commissions from his Britannic Majesty; and a sum exceeding twelve hundred thousand pounds sterling, in specie, was actually paid to American citizens, by the decision of the joint commission appointed in conformity with the said treaty.

From this view of the subject, I have the honour to propose to your excellency an arrangement, founded on the following basis, in which, without abandoning the just rights of the citizens of the United States, a positive stipulation is avoided, which would at this time, bind the government of France to make compensation generally for all the condemnations under the Berlin and Milan decrees.

1st. That the government of France will engage to make compensation to the citizens of the United States: 1. For all vessels and cargoes captured, seized, or sequestered, which have not been definitively condemned, by the Council of Prizes, and the proceeds of which were placed either in the public treasury, in the *caisse d'amortissement*, or in any other public chest; and also for all vessels and cargoes destroyed at sea, and likewise not condemned by the Council of Prizes: 2. For the losses sustained by reason of such other irregular or unlawful seizures, captures, or condemnations, as will be decreed, by a joint commission, to have been made contrary to public law and justice, or in contravention of existing treaties.

2nd. That a joint commission, (or commissions) shall be established with power, 1. To liquidate the amount due for property, either destroyed at sea, or sequestered, and not definitively condemned as aforesaid: 2. To decide in what other cases of irregular or unlawful seizures, captures, or condemnations, the government of France is justly bound to make also compensation, and to what amount.

The manner in which the commission or commissions should be appointed and organized may, it is presumed, be easily arranged, and every reasonable stipulation will be admitted which may be necessary to limit exclusively the right to compensation to cases of bona fide American property.

I cannot end this communication without saying, that the present situation of France is known and felt by the government of the United States. It is evidently the interest of America that France should be prosperous and powerful. It is the sincere wish of the government of America, that the present government of France may soon be relieved from the difficulties which the lamentable event of March, 1815, has occasioned. It is, therefore, with reluctance, and only in obedience to a sacred duty, that a demand is made, at this time, which may have a tendency to increase those difficulties; and every disposition exists to accede to such time and mode of payment as, without being inconsistent with the just rights of the citizens of the United States, may be least inconvenient to France.

Permit me to request your Excellency to take the subject into early consideration, and to communicate to me, as soon as may be practicable, the determination of his Majesty's government.

I have the honour to be, with the highest consideration, your Excellency's most obedient servant,

ALBERT GALLATIN.  
His Excellency the DUKE DE RICHELIEU,  
Minister, Sec'y of State for the Department of Foreign Affairs, &c. &c.

Extracts of a Letter, No. 19, from Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary, to France, to Mr. Monroe, Secretary of State, dated,

PARIS, 20th January, 1817.

"Having received no answer from the Duke de Richelieu, to my letter of the 9th November last, I addressed to him, on the 26th December, a short note, of which, and of his answer, dated the 16th instant, copies are enclosed.

"In the interview which accordingly took place to-day, I requested that he

would proceed to state what he had concluded to offer in answer to the basis proposed in my note of the 9th of November last. He said that his offer would fall very short of our demands; that he would not go beyond an indemnity for vessels burnt at sea, and for those, the proceeds of which had been only sequestered and deposited in the *caisse d'amortissement*. He added, that he would make his proposal in writing, and that this would not be attended with much delay. I then said that I could not give any opinion on his proposal, until I had received his note, but that I wished him to understand that, if the government of the United States thought it proper, (which I could not at present promise,) to accept an indemnity for certain classes only of our claims, this never would be purchased by a relinquishment of the other just demands of our citizens."

Mr. Gallatin to the Duke de Richelieu.

PARIS, 26th December, 1816.

The undersigned, sensible of the important business which, at the opening of the two Chambers, must have engrossed the attention of his Most Christian Majesty's Government, has heretofore avoided to urge the consideration of the subject matter of the letter, which he had the honour to address, on the 9th of November last, to his excellency the Duke de Richelieu. It has, however, become necessary that he should be able to communicate to his own government, the result of his application. He therefore requests an interview as early as will suit the convenience of the Duke de Richelieu.

The undersigned embraces, with pleasure, this opportunity of presenting to his excellency the Duke de Richelieu, the reiterated assurances of his most distinguished consideration.

The Duke de Richelieu to Mr. Gallatin.

[TRANSLATION.]

PARIS, 16th January, 1817.

The Duke de Richelieu cannot but deeply regret that his weighty and multiplied avocations have compelled him to put off, until this moment, the time he had promised himself to receive Mr. Gallatin, and now fixes the time for Monday morning, the 20th of the present month, at noon, if that day meets his convenience.

He prays him to accept, meanwhile, the renewed assurance of his most distinguished consideration.

Extract of a letter, No. 27, from Mr. Gallatin to the Secretary of State, dated Paris, 23d April, 1817.

"I had an interview on the 13th instant with the Duke de Richelieu, in which he announced to me, that he had concluded not to give a written answer to my note of the 9th of November last, on the subject of American claims. The claims of the subjects of European powers which France was, by the Convention of 1815, bound to pay, had been estimated at a sum not exceeding, at most, one hundred and fifty millions of francs (or an annuity of seven and a half millions.) But it was now found, that the terms thus imposed were much harsher than the French government had expected, or than the allies themselves had intended. The reclamation, under the convention with Great Britain, did not indeed exceed the sum of fifty millions, at which they had been estimated: but those of the subjects of continental powers, filed with the commission appointed for that purpose, exceeded twelve hundred millions, without including a portion of the Spanish claims, the time for preventing which had not yet expired. Many of those demands would undoubtedly be rejected, or reduced by the commission. Still, the probable amount which might be declared justly due, so far exceeded every previous calculation, and was so much beyond the ability of France to pay, that he (the Duke) was now employed in seeking some means of obtaining modifications which might bring the payments in some measure within the resources of the country. Under such circumstances, and whilst unable to face the engagements which superior force had imposed on them, it was, he said, utterly impossible for his majesty's Government to contract, voluntarily, new obligations. They were not willing to reject, absolutely and definitively, our reclamations *in toto*; they could not, at this time, admit them. What he had now verbally communicated, could not, for many reasons, become the ground of an official answer to my note. He had, therefore, concluded that a silent postponement of the subject was the least objectionable course, since, having now made our demand for indemnity in an official manner, the question would be left entire for discussion at some more favourable time, after France was in some degree disentangled from her present difficulties. He added, that, if there was any apparent inconsistency between the language he had formerly held, and what he was now compelled to say, it must be ascribed to the circumstances he had stated, to the extraordinary and frightful amount to which he had lately found other foreign claims to have swelled.

"After some remarks on the disappointment which, after what had passed in our first conversation, this unexpected determination must produce, I replied, that the payment by France of exaggerated and doubtful claims to the subjects of every other foreign power, did but increase the injustice of refusing to admit the moderate and unexceptionable demands of the American citizens. The present embarrassments of France, however, increased by the magnitude of those foreign private claims, could form no solid objection to the recognition and liquidation, although they might impede the immediate discharge of our reclamations. It was with this view of the subject that I had, from the first outset, expressed the disposition of the government of the United States to accommodate that of France, as to the time and manner of making compensation to the claimants. I added, that his declining to answer my note in writing, would, exclusively of other objections, leave no trace of the ground on which he placed the postponement of the subject.

"The Duke, without answering my observations in a direct way, gave me to understand, that, after the great sacrifices to which the King's Ministers had been compelled to give a reluctant assent, and the magnitude of which would soon be known, they would not dare to take the responsibility of acknowledging a new debt, although made payable at a distant period.

(To be continued.)